

FILED
LOS ANGELES SUPERIOR COURT

MAR 08 2011

JOHN A. CLARKE, CLERK
BY *[Signature]* BARBARA SMITH, DEPUTY

1 RICHARD I. FINE,
2 18102 Jaguar Ct.
3 Tarzana, California 91335
4 Telephone: (310) 622-6900
5 Facsimile: (818) 996-8514
6 Former Attorney for Petitioner
7 Marina Strand Colony II Homeowners Association
8 Respondent in Contempt Proceeding, also
9 In Pro Per in the Contempt Proceeding

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF LOS ANGELES

12 CENTRAL DISTRICT

13 MARINA STRAND COLONY II,
14 HOMEOWNERS ASSOCIATION,

15 Petitioner,

16 v.

17 COUNTY OF LOS ANGELES,

18 Respondent.

19 DEL REY SHORES JOINT VENTURE;
20 DEL REY SHORES JOINT VENTURE
21 NORTH

22 Real Party in Interest

) CASE NO. BS 109420

) Notice That March 4, 2011 Order of Judge
) Kuhl Is A Void Order As A Violation of
) CCP Section 170.1(a)(6)(A)(iii) and Code of
) Judicial Ethics, Canons 2A, 3E (1) and (2),
) and 4D(1) and an Obstruction of Justice;
) Demand that the Motion for Renewal of
) the Motion to Void and Annul All Orders
) and Judgments Including Those in the
) Contempt Proceedings in the Case Made
) by Judge Yaffe; Request for Judicial
) Notice and Declaration of Richard I. Fine
) Be Heard on March 10, 2011 as Set in
) Department 1 Before an Impartial Judge
) Who Has Not Received Illegal Payments
) From LA County

23 Date: March 10, 2011

24 Time: 9:00 am

25 New Place: Dept. 1

26 OSC Filed: 11/3/2008

27 Trial Date: 12/22/2008

28 CCP Section 1008(b)(e)

22624wpd/t7a

Notice of Void Order and Demand

Notice That March 4, 2011 Order of Judge Kuhl Is A Void Order as A Violation of CCP Section 170.1(a)(6)(A)(iii) and Code of Judicial Ethics, Canons 2A, 3E (1) and (2), and 4D(1) and an Obstruction of Justice

On March 4, 2011, Judge Carolyn B. Kuhl, on her own motion ordered the present "motion for renewal" "off calendar". The present "motion for renewal" was originally set in Department 1 for March 4, 2011 and reset by the Clerk for March 10, 2011. As shown in the "motion for renewal", the basis for the "motion for renewal" was that the January 7, 2011 order of Retired Judge O'Brien was void because he was disqualified from the outset for not having disqualified himself for not having disclosed and disqualified himself for having received approximately \$277,925.64 in illegal payments from LA County, a party to the case.

The receipt of the LA County payments rendered him susceptible to being removed as a judge if he were still an active judge and convicted for the federal crime of violating the "intangible right to honest services", 18 U.S.C. 1346, and serving prison time in a U.S. prison under the holdings of the cases of Adams v. Commission on Judicial Performance (July 20, 1995) 10 Cal.4th 866, 904 Rehearing Denied Sept., 14, 1995, (judge accepted gifts, financial benefits and favors from attorneys and a litigant appearing in the judge's court, this required disqualification with respect to matters involving these attorneys or their firms, pages 879, 913-914 citing Adams v. Commission on Judicial Performance (1994), 8 Cal.4th 630, 661-663 (Adams I) which represented "... conduct prejudicial to the administration of justice that brings the judicial office into disrepute.."); and U.S. v. Frega, U.S. v. Malkus, U.S. v. Adams (1999) 179 F.3d 793 (the payment by a party and an attorney appearing before a judge to such judge are bribery and violate 18 U.S.C. Section 1346-the intangible right to honest services) stating at 805-807:

Because no linkage of payment and specific official act is required under California law and because the indictment incorporates the relevant state bribery statutes, which, in turn, state the elements of the bribery offenses, the indictment is valid in this respect.

Judge Yaffe who received approximately \$827,612.55 from LA County also made "void" decisions in this case and was susceptible to the same punishment. Judge Yaffe resigned before the Commission on Judicial Performance could act.

The motion to set aside all of Judge Yaffe's void orders is specifically contemplated by the CCP. CCP Section 473(d) allows a motion to void the actions of a judge to be brought at any time

1 without regard to bringing it before the same judge or even court. Such section states:

2 (d) **The court** may, upon motion of the injured party, or its own motion, correct clerical
3 mistakes in its judgment or orders as entered, so as to conform to the judgment or
4 order directed, and **may, on motion of either party after notice to the other party, set**
5 **aside any void judgment or order.** (Emphasis added.)

6 CCP Section 1008(b) allows a motion for renewal to be brought before any judicial officer
7 without any requirement that the motion be brought before the judge who previously heard such.

8 Such section states:

9 (b) A party who originally made an application for an order which was refused in whole
10 or part, or granted conditionally or on terms, may make a subsequent application for the
11 same order upon new or different facts, circumstances, or law, in which case it shall be
12 shown by affidavit what application was made before, when and to what judge, what order
or decisions were made, and what new or different facts, circumstances, or law are claimed
to be shown. For a failure to comply with this subdivision, any order made on a
subsequent application may be revoked or set aside on ex parte motion.

13 In contrast, CCP Section 1008(a) requires a motion for reconsideration to be brought
14 before the same judge who decided the original motion.

15 In her "Minute Order", Judge Kuhl stated as her reason for ordering the "motion for
16 renewal" off calendar in Department 1 the following:

17 All judges of the Superior Court are independently elected constitutional officers. Neither
18 the presiding judge nor a supervising judge has the authority to review, overrule, intervene
19 in or otherwise affect the outcome of any matter proceeding before another judicial officer.
20 Any dissatisfaction with the findings of fact or the rulings of law by any other judicial
officer must be addressed to that judicial officer or to the Court of Appeal. The motion
having been improperly set for hearing in Department 1, the court orders it off calendar.

21 As clearly seen from the above quoted sections, Judge Kuhl's statement violates both CCP
22 Sections 473(d) and 1008(b). In doing such Judge Kuhl has violated Code of Judicial Conduct,
23 Canon, 1A "A Judge shall respect and comply with the law...". Judge Kuhl was not only not
24 "complying with the law", she was making her own law in contravention to CCP Sections 473(d)
and 1008(b).

25 However, her transgressions did not stop there. Like Judges Yaffe and O'Brien, Judge
26 Kuhl did not disclose the amount of illegal payments that she received from LA County. Judge
27 Kuhl became a LA Superior Court judge in 1995. Based upon the LA County payments to Judge
28 Berle who became a LA Superior Court judge in 1997, of approximately \$637,206.88, and the LA

1 County payments of approximately \$100,000.00 to Judge Yaffe in 2005 and 2006, it is estimated
2 that Judge Kuhl received approximately \$737,000.00 in illegal payments from LA County.

3 Additionally, according to the California Judicial Council Official Site, Judge Kuhl was a
4 member of the California Judicial Council from 2006 onwards without a closing date. This meant
5 that she was a member when the California Judicial Council drafted California Senate Bill SBX
6 2 11 which grants her and other judges retroactive immunity from criminal prosecution, civil
7 liability and disciplinary action for having received illegal payments from LA County and which
8 is being challenged as unconstitutional in the "motion for renewal".

9 Finally, Judge Kuhl is married to LA Superior Court judge William F. Highberger who
10 also receives LA County payments.

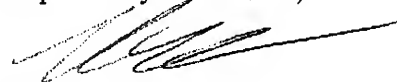
11 Like Judges Yaffe and O'Brien, Judge Kuhl did not disclose the LA County payments nor
12 disqualify herself from the instant case. Like Judges Yaffe and O'Brien, Judge Kuhl was
13 disqualified from the outset, her order was void, she violated CCP Section 170.1(a)(6)(A)(iii) and
14 Code of Judicial Ethics, Canons 2A, 3E (1) and (2), and 4D(1) and committed an "Obstruction of
15 Justice". Further, by having received such LA County payments Judge Kuhl is susceptible to
16 losing her judicial position and to being convicted for violating the "intangible right to honest
17 services." Most egregious, Judge Kuhl, more than other judges knew this to be true as she was a
18 Deputy Solicitor General and Assistant Attorney General in the U.S. Department of Justice.

19 Judge Kuhl, more than any other judge, knows that she has violated, corrupted and
20 destroyed the integrity of the judicial office by her actions.

21 **Demand is hereby made that the Motion for Renewal of the Motion to Void and Annul**
22 **All Orders and Judgments Including Those in the Contempt Proceedings in the Case Made**
23 **by Judge Yaffe; Request for Judicial Notice and Declaration of Richard I. Fine be heard on**
24 **March 10, 2011 as set in Department 1 before an impartial judge who has not received**
25 **illegal payments from LA County.**

26 Dated: 3/8/11

Respectfully submitted,



Richard I. Fine

Former Attorney for Petitioner Marina Strand Colony II Homeowners Association
Respondent in Contempt Proceeding, also In Pro Per in the Contempt Proceeding

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and a party to the contempt proceedings to the within action. My business address is 18102 Jaguar Ct., Tarzana, California 91335.

On March 8, 2011, I served the foregoing document described as **Notice That March 4, 2011 Order of Judge Kuhl Is A Void Order As A Violation of CCP Section 170.1(a)(6)(A)(iii) and Code of Judicial Ethics, Canons 2A, 3E (1) and (2), and 4D(1) and an Obstruction of Justice; Demand that the Motion for Renewal of the Motion to Void and Annul All Orders and Judgments Including Those in the Contempt Proceedings in the Case Made by Judge Yaffe; Request for Judicial Notice and Declaration of Richard I. Fine Be Heard on March 10, 2011 as Set in Department 1 Before an Impartial Judge Who Has Not Received Illegal Payments From LA County** on the interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

Andrea Ordin	Armbruster, Goldsmith & Delvac, LLP
Elaine M. Lemke	R.J. Comer
648 Kenneth Hahn Hall of Administration	10940 Wilshire Blvd., Suite 2100
500 West Temple Street	Los Angeles, CA 90024
Los Angeles, CA 90012-2713	FACSIMILE: (310) 209-8801
FACSIMILE: (213) 687 7337	

Rose M. Zoia	Joshua L. Rosen
50 Old Courthouse Square, Suite 401	5905 Sherbourne Drive
Santa Rosa, CA 95404	Los Angeles, CA 90056
FACSIMILE: (707) 526-5895	FACSIMILE: (310) 410-7227

☒ BY MAIL. BY EXPRESS MAIL /FED EX As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or meter date is more than one day after the date of deposit for mailing in affidavit.

☒ BY FACSIMILE: By transmitting the documents by facsimile to the stated parties at their respective facsimile numbers as shown above pursuant to CCP § 1013(e).

BY PERSONAL SERVICE: By delivering a copy to the above mentioned persons at:

☒ STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed March 8, 2011 at Los Angeles, California.


RICHARD I. FINE